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C O N F I D E N T I A L SECTION 01 OF 03 SHANGHAI 000326

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SUBJECT: GAY SHANGHAI: AMBIGUOUS STATUS CREATES VULNERABILITY

REF: A) SHANGHAI 318 B) SHANGHAI 324

CLASSIFIED BY: Mary Tarnowka, Section Chief, Political/Economic Section , U.S. Consulate Shanghai.

REASON: 1.4 (b), (d)

¶1. (C) Summary: According to contacts in Shanghai's gay community, sexual discrimination in Shanghai was rife, but because few Shanghainese were openly gay and lesbian in a way that countered social expectations to fulfill family duties, such as to marry and reproduce, discrimination was less direct and confrontational. Many individuals interviewed for this cable appeared to know how to structure their lives in order to avoid hostile social environments. Organizations or venues devoted to the gay community appeared to have a more complex relationship with the law and were vulnerable to corruption. This is the third of a series of four cables addressing the social, medical, legal and media issues facing the gay community in Shanghai. End Summary.

AMBIGUOUS LEGAL STATUS OF HOMOSEXUALITY

¶2. (C) Poloff interviewed a wide-range of gays and lesbians in Shanghai, as well as academics and medical professionals during the month of April. Chinese law does not address or classify homosexuals as a minority group nor protected class. In 1997, China revised its criminal law and abolished the crime of "hooliganism" which was often used in connection with arrests of homosexuals or raids on gay venues. At present, most gay contacts in Shanghai appear to be more concerned with daily living and managing family expectations than changing Chinese law. Contacts in the gay community all considered the government to be neither for nor against the gay community.

¶3. (C) While one gay male said that the lack of legal boundaries for the gay community had turned Shanghai into a "gay paradise", others believed that this legal ambiguity had many disadvantages. A Chinese-Malaysian lesbian working in the wine industry said that she was grateful to hold a non-Chinese passport. She believed the government would take action, if necessary, against the gay community if it was linked to a health or drug problem. "Gay people in China," she added, "lived in a gray zone" with little guidance on what was

permitted. Rager Sheng, the Shanghai Branch Director of Chi Heng Foundation, a Hong-Kong based NGO devoted to HIV/AIDS prevention, said there were no legal protections for homosexuals. He pointed to a case of a male bartender in Zhejiang Province who could not file a complaint in court against his boss for raping him because lawyers and other law enforcement officials could not find supporting rulings for a male-on-male sexual assault case.

NGOs CONSTANTLY UNDER THREAT OF BEING SHUTDOWN

¶4. (C) Contacts noted that this the lack of precedence over what organizations or individuals could or could not do to assist the gay community meant that the trigger for a police response remained a constant unknown. According to gay rights activist Zhou Dan, he and a doctor who worked on HIV/AIDS in the gay community, Dr. Tong Chuanliang started the first hotline for callers with questions about gay issues. The hotline, in cooperation with the Shanghai Sexually Transmitted Diseases (STD) and HIV Association, an affiliate of the Shanghai Skin and STD Hospital, was a government-owned, non-governmental organization (GONGO) staffed by over 50 volunteers who responded to an initial Web posting. The staff responded to questions from callers about being gay, coming out and family pressures until the hotline was suddenly closed in December 2005 due to "misoperation". The hotline's partner GONGO forgot to file a report with the police about a party the hotlines' volunteers planned to host at a gay bar. The party was to feature "entertainment" followed by a question/answer session in the form of a game to educate the audience about HIV/AIDS transmission. Once the police heard about the nature of the party, they cancelled the event and soon, thereafter, closed the hotline. Dr. Tong added that he "was confused" over how the GONGO could forget such a routine filing. In 2004, the Chi Heng Foundation started another hotline with the same purpose, which

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has yet to be shut down.

¶5. (C) According to Shanghai Academy of Social Sciences Research Center for HIV/AIDS Director Xia Guomei, "the bosses and police" were the biggest challenges for HIV/AIDS educators and NGOs. She said that HIV/AIDS educators were often arrested alongside prostitutes and customers because they were viewed by the police as consumers of an illegal trade or viewed by owners of gay bars and bath houses as non-consumers and thus unwelcome. The police would then notify the volunteer's family and work unit about the nature of the arrest, causing a loss of face regardless of the volunteer's sexuality. She noted that she would lead a training session for owners of gay venues and police in Nanjing on May 7 to educate them on the work of HIV/AIDS volunteers.

¶6. (C) Chi Heng Foundation Founder Chung To said that there were tighter constraints on the NGO community in the last year or two. He believed this was related to the "color revolutions" in Ukraine and China was closely following Russia's lead and had become more restrictive towards NGOs a month after Russia passed laws on no new NGOs. He said his NGO, however, had slightly more freedom to operate since its work was focused on directly improving people's lives (by allowing children to attend schools, etc.) Whereas environmental NGOs which advocated social change or group movements had a harder time. He mentioned that the Shanghai staff of Chi Heng received weekly phone calls from Public Security Bureau (PSB) officials asking for a report on their activities, plans and who they had met with lately. PSB officials were required to report on Chi Heng activities to their superiors. The PSB officers told Chi Heng employees that the one time that the employees did not inform them about an event, the officers were scolded by their superiors.

¶7. (C) According to Simon Adams, a British expatriate and one of the owners of a gay multiplex, the lines of what activities were and were not allowed were unclear, so he had to tread carefully. The multiplex, Pink Home, opened in November 2006 as China's first gay multiplex. A disco occupied the first floor, a lounge/restaurant was on the second floor, and hotel rooms were on floors three to four. Adams said Pink Home aimed to create a venue that would change the perception of gay bars as "seedy, flea-infested pits." He said that, "In China, it's all about what you say and how you say it." For example, Pink Home did not use the word "gay," but instead opted for "an exclusive dance club" or "an exclusive gentlemen's bar" in its English and Chinese ads. In contrast, a bar down the street from Pink Home, after it witnessed Pink Home's full house and all-male clientele, hung a huge rainbow flag in its window with a sign that boldly stated, "We are a gay bar." The police shut it down immediately. Adams added, it was one thing to be a gay venue, but it was another thing to actually come out and say it. He noted that police were more fixated on whether a venue sold drugs, and the presence of drugs created a definite police flash-point for any establishment. He believed that as long as Pink Home was not allowing visible use of drugs the police would continue to ignore other aspects of the business.

"MANAGING" THE POLICE

¶8. (C) According to Adams, Pink Home could be closed at anytime and he has worked hard to "manage" the police. Adams said that police dropped by constantly to discuss fire codes, light codes and to inquire about an anti-drug campaign. The police never discussed the nature of Pink Home or asked about public health concerns, such as HIV/AIDS or other STDs. To initially receive permission to open Pink Home and keep police raids at a minimum, Adams and his Shanghainese business partner Ricky Liu hosted monthly dinners for three Shanghai City policemen at various Chinese restaurants. The dinners were held in private banquet rooms where the courses were interspersed with shots of rice liquor and ended with Mr. Liu presenting them with a "hongbao"

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or red envelope full of cash. The police never asked for the money, suggested an amount, or said much when they received the money. However, if they did not receive the money, Pink Home experienced a substantial increase in visits from the police, impediments to construction or raids during business hours.

¶9. (C) Simon heard that the Shanghai police chief made 2000 RMB/month, but actually grossed around 200,000 RMB/month due to monthly installments from clubs across the city. He also noted that when Pink Home's business did well, then the red envelope amounts had to increase in proportion. Simon believed that all of Shanghai's clubs paid monthly salaries to the police, but paused when asked if Pink Home had to pay more since it was a gay venue. "They know what we do," he said, "and they may use that to their advantage."

COMMENT

¶10. (C) Chinese society has largely not acknowledged the gay community (reftel A). For the most part, members of the gay community have made peace with their ambiguous legal status. There are few people like the lawyer Zhou Dan who openly push for gay rights and there are few mechanisms available to the people to push for change in any area of Chinese political life.

This is unlikely to change in the near future. While the police and society at large blithely overlook this segment of Shanghai life, they do seem to recognize the implications of the pink renminbi. Therefore, businesses catering to the gay community have adopted standard practices for securing their livelihoods in Shanghai, which is to make sure everyone reaps the benefits.

JARRETT